

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

RALPH SIMON,	)	Case No. 4:14-cv-1136 (JAR)
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
SELECT COMFORT RETAIL CORP.,	)	
	)	
and	)	
	)	
SELECT COMFORT CORPORATION,	)	
	)	
Defendant.	)	

**DEFENDANTS' MOTION TO EXCLUDE THE TESTIMONY OF PATSY DUNCAN**

Pursuant to Federal Rule of Evidence 702, Defendants Select Comfort Retail Corp. and Select Comfort Corporation hereby move to exclude the testimony of Plaintiff's proposed expert, Patsy Duncan, because Ms. Duncan lacks the requisite qualifications, her sampling methodology on which her opinions are based is unreliable, and her testimony is irrelevant and will not assist the trier of fact.

Defendants' motion is based on all the files, records, and proceedings herein, including memoranda of law to be filed in support of the motion, supporting affidavits and exhibits, and arguments of counsel.

Pursuant to Rule 78-4.02(B) of the Local Rules of the United States District Court for the Eastern District of Missouri, Defendants request this Court to hold oral argument on the issues presented by Defendants' Motion for Summary Judgment and accompanying *Daubert* motions, and Simon's response thereto. The issues raised in Defendants' motions and Plaintiff's response involve complex and technical matters involving, *inter alia*, expert qualifications, product

design, and medical causation. Defendants believe that oral argument on the above issues will assist the Court in its deliberation on the arguments presented in the written motion papers and the just resolution of the issues presented therein.

Date: August 28, 2015.

**OPPENHEIMER WOLFF & DONNELLY LLP**

By: s/ Andrew S. Hansen  
Andrew S. Hansen (MN #285894) (*pro hac vice*)  
Heidi A.O. Fisher (MN #320638) (*pro hac vice*)  
Ellie J. Barragry (MN #395207) (*pro hac vice*)  
Campbell Mithun Tower, Suite 2000  
222 South Ninth Street  
Minneapolis, MN 55402-3338  
Telephone: (612) 607-7000  
Facsimile: (612) 607-7100

**BRYAN CAVE**

Eric Martin, #47558  
Jamie Hais, #64882  
One Metropolitan Square  
211 North Broadway, Suite 3600  
St. Louis, MO 63102-2750  
Telephone: (314) 259-2324  
Facsimile: (314) 259-2020

**ATTORNEYS FOR DEFENDANTS**